

CRR-113-2015 (O & M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-113-2015 (O & M)
Date of Decision: 29.07.2015

Mamu @ Karnail

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Brijender Kaushik, Advocate for
Mr. G.S. Jaswal, Advocate for the petitioner.

Mr. C.S. Bakshi, Addl. Advocate General, Haryana.

Paramjeet Singh, J. (Oral)

CRM No. 1272 of 2015 and CRR No. 113 of 2015

Notice of motion.

At the asking of the Court, Mr. C.S. Bakshi, learned

Additional Advocate General, Haryana accepts notice on behalf of the

respondent-State.

Having heard counsel for the parties and for the reasons mentioned in the application, delay of 87 days in filing the revision petition is condoned.

Present criminal revision has been preferred by the petitioner against judgment dated 17.07.2014 passed by the Additional Sessions Judge, Kurukshetra whereby appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 09.12.2011 passed by the Addl. Chief Judicial Magistrate, Kurukshetra, has been dismissed and the conviction and order of sentence have been upheld, whereby the petitioners have been sentenced as under :-

Offence	Sentence	Fine
323, 34 IPC	R.I. six months	--
325, 34 IPC	R.I. one year	₹500/-
326, 34 IPC	R.I. two years	₹1000/-

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgments of courts below and in view of the ultimate prayer of the petitioner seeking reduction in sentence.

I have heard the learned counsel for the parties and perused the record.

Learned counsel appearing for the petitioner states that he is

not pressing this revision on merit and is not challenging the conviction

on merit. He is only aggrieved against the sentence part. However, he prays that sentence of the petitioner be suitably reduced as this criminal trial is hanging on his head like damocle's sword for more than ten years and it should be a sufficient mitigating circumstance to treat him leniently. Learned counsel for the petitioner has further submitted that the FIR pertains to the year 2004 and since then a period of more than ten years has elapsed. The petitioner has suffered the ordeal for long period. Learned counsel for the petitioner further submits that the petitioner has already undergone the imprisonment for about 1 year and 04 months.

Learned counsel for the State vehemently opposes the reduction in sentence.

I have considered the contentions raised by learned counsel for the parties.

Ancient penological approach was custodial measure to curb crime. But in modern days, penological approach should be balanced keeping in view the needs of the community and interests of the accused: such as compensation to the victims, release on admonition, probation etc. These are being adopted to reform the criminal convicts. The object of criminal justice system is to reform the offenders and to make them see and follow the right path. Otherwise also jails are often overcrowded.

In view of the arguments advanced by learned counsel for

the petitioners, which have been noted above, this Court is of the view that no useful purpose will be served by keeping the petitioner behind bars as the petitioner has already faced ordeal for more than ten years and he has undergone the imprisonment for about 1 year and 04 months. It is a fit case wherein sentence awarded to the petitioner can be reduced to already undergone and in lieu thereof he can be burdened with fine. Ordered accordingly. The fine is enhanced to ₹2000/-. It is, however, made clear that the petitioner, who is stated to be in custody, shall be released on deposit of enhanced fine and if not required in any other case. The period of sentence will stand reduced to undergone up to the actual release, as aforesaid. The impugned order of sentence and conviction, including default clause, stands affirmed with aforesaid modification. It goes without saying if the amount of fine is not deposited, the petitioner will serve the remaining part of sentence.

With the above observations/modification of impugned order, present revision petition is disposed of.

July 29, 2015.
kanchan

(PARAMJEET SINGH)
JUDGE